

APPLICANT(S): GINZBURG, Boris et al.  
SERIAL NO.: 10/810,687  
FILED: March 29, 2004  
Page 10

### **REMARKS**

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

### **Status of Claims**

Claims 1, 3-12, 14-22, 24-32 and 34-35 have been rejected.

Claims 1, 3-12, 14-22, 24-32 and 34-35 remain pending in the application.

Claims 1, 3, 5, 6-12, 14, 16-22, 25-32 and 34-35 have been amended.

Applicants respectfully assert that the amendments to the claims add no new matter.

### **Interview Summary**

Initially, Applicants wish to thank Examiner Jean Alland Gelin for the Telephone interview held on December 12, 2007, with Applicants' Representative, Mr. Guy Yonay, Reg. No. 52, 388. In the interview, Applicants' Representative indicated that the claims currently on record are substantially similar to the claims indicated by the Examiner as allowable in the first Office action mailed March 22, 2007.

In that Office action, the Examiner indicated that claims 5-11, 16-21, 25-28, 30-31 and 34-35 would be allowable if rewritten in independent form including the limitation of the base claims (original independent claims 1, 12, 22, 29 and 32, respectively). Each of the independent claims currently on record include all the elements of the claim as originally filed together with the elements of allowable dependent claims 5, 16, 25, 30 and 34, respectively. Accordingly, the claims currently on record should be allowable over the prior art on record.

As suggested by the Examiner, Applicants hereby submit a second amendment to be considered by the Examiner.

APPLICANT(S): GINZBURG, Boris et al.  
SERIAL NO.: 10/810,687  
FILED: March 29, 2004  
Page 11

### **Allowable Subject Matter**

Applicants wish to thank the Examiner for indicating that claims 5-11, 16-21, 25-28, 30-31 and 34-35 would be allowable if rewritten in independent form and amended to overcome the rejections under 35 U.S.C. § 112.

Independent claim 1 has been amended to include all the elements the original claim together with all the elements of original claim 5. Independent claim 12 has been amended to include all the elements the original claim together with all the elements of original claim 16. Independent claim 22 has been amended to include all the elements the original claim together with all the elements of original claim 25. Independent claim 29 has been amended to include all the elements the original claim together with all the elements of original claim 30 and independent claim 32 has been amended to include all the elements the original claim together with all the elements of original claim 34. In addition, claims 1, 12, 22, 29 and 32 have been amended to overcome the rejections under 35 U.S.C. § 112.

### **CLAIM REJECTIONS**

#### **35 U.S.C. § 112 Rejections**

In the Office Action, the Examiner rejected claims 1, 3-12, 14-22, 24-32 and 34-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 1, 12, 22, 29 and 32 have been amended by deleting the phrase "select/selecting if ...using a second modulation type" to overcome the deficiencies noted by the Examiner. Each of claims 3-11, 14-21, 24-28, 30 and 34-35 depends directly or indirectly from one of independent claims 1, 12, 22, 29 and 32. Accordingly, Applicants respectfully request that the rejection of claims 1, 3-12, 14-22, 24-32 and 34-35 under 35 USC § 112 be withdrawn.

In addition, claims 5, 16, 25, 30 and 34 which were amended to include the phrase "select/selecting if ...using a second modulation type", previously included in

APPLICANT(S): GINZBURG, Boris et al.  
SERIAL NO.: 10/810,687  
FILED: March 29, 2004  
Page 12

claims 1, 12, 22, 29 and 32, respectively, have been amended to clearly indicate "what is being selected".

### **35 U.S.C. § 102 and § 103 Rejections**

In the Office Action, the Examiner rejected claims 1, 3-4, 12, 14-15 and 32 under 35 U.S.C. § 102(e), as being anticipated by U.S. Publication No. 2003/0169763 to Choi et al.

Claims 22, 24 and 29 were rejected under 35 U.S.C. 103(a), as being unpatentable over Choi et al. (US 2003/0169763) in view of Li et al (US 2005/0146470).

As indicated by the Examiner, claims 5, 16, 25, 30 and 34 would be allowable if rewritten in independent form.

Independent claims 1, 12, 22, 29 and 32 have been amended to incorporate the limitations of original claims 5, 16, 25, 30 and 34, respectively and to delete the previously added limitations of cancelled claims 2, 13, 23, 23 and 33, respectively.

For example, original claim 1 recites:

"selecting, based on a predetermined criterion related to a successful transmission of a data packet, one of at least first and second protection mechanisms to protect said data packet."

Original claim 5 recites:

"The method of claim 1 comprising estimating at least one of a first parameter related to said data packet being protected using said first protection mechanism, a second parameter related to said data packet being protected using said second protection mechanism, and a third parameter related to said data packet not being protected, wherein said criterion relates to one or more of said parameters."

APPLICANT(S): GINZBURG, Boris et al.  
SERIAL NO.: 10/810,687  
FILED: March 29, 2004  
Page 13

Amended Claim 1 which combines Original claims 1 and 5 recites:

"estimating at least one of a first parameter, a second parameter and a third parameter, the first parameter related to a data packet being protected using a first protection mechanism, the second parameter related to the data packet being protected using a second protection mechanism, and the third parameter related to the data packet not being protected; and

selecting one of at least the first and the second protection mechanisms to protect said data packet based on a predetermined criterion related to a successful transmission of said data packet that uses one or more of the parameters."

Therefore, claim 1 and claims 12, 22, 29 and 32 are believed to be allowable. Each of dependent claims 3-4, 14-15 and 24 depends, directly or indirectly from one of independent claims 1, 12 and 22 and includes the limitations of the claim from which it depends, and is therefore likewise allowable.

Accordingly, Applicants respectfully request that the rejections of claims 1, 3-4, 12, 14-15, 22, 24, 29 and 32 be withdrawn.

### **CONCLUSION**

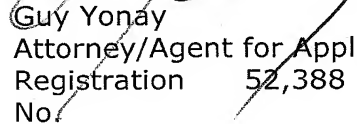
In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

APPLICANT(S): GINZBURG, Boris et al.  
SERIAL NO.: 10/810,687  
FILED: March 29, 2004  
Page 14

No fees are believed to be due associated with this paper. If any such fees are due, please charge such fees to deposit account No. 50-3355.

Respectfully submitted,

  
Guy Yonay  
Attorney/Agent for Applicant(s)  
Registration 52,388  
No.

Dated: December 17, 2007

**Pearl Cohen Zedek Latzer, LLP**  
1500 Broadway, 12th Floor  
New York, New York 10036  
Tel: (646) 878-0800  
Fax: (646) 878-0801